

21.16(3) Credit shall be given for a period of vacation or leave of absence authorized by the employer not to exceed 12 months. If a period of vacation or leave of absence exceeds 12 months, credit will be given for the first 12 months only. However, if a period of vacation or leave of absence was granted for 12 months or less, and renewed for 12 months or less, all periods of vacation or leave of absence shall be included as membership service, even though all periods added together exceed 12 months.

21.16(4) Reentry into public employment by an employee on leave of absence can be achieved by the employee by accepting employment with any public employer, provided there is no interruption between the end of the period of leave of absence and reentry into public employment.

21.16(5) Credit for a leave of absence shall not be granted for any time period which begins after or extends beyond an employee's termination of employment as certified by the employer. This includes a certification of termination of employment made by an employer on a refund application. Employers shall be required to certify all leaves of absence for which credit is being requested using an affidavit furnished by IPERS and accompanied by a copy of the official record(s) which authorized the leave of absence. The provisions of this subrule denying credit for leaves of absence in certain situations shall apply to leaves of absence that begin on or after the effective date of this subrule, which shall be November 27, 1996. The provisions of the subrule requiring employers to certify all leaves of absence using an affidavit furnished by IPERS shall apply to all requests for leave of absence credit filed after November 27, 1996, regardless of when the leave of absence was granted.

This rule is intended to implement Iowa Code section 97B.41(8) and (15).

581—21.17(97B) Membership status.

21.17(1) Effective July 1, 1990, a member achieves vested status when the member has served and made contributions in 16 or more quarters of IPERS-covered employment or attains the age of 55. The vested status of a member may also be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after any periods of interruption in service have been taken into consideration, the member shall be considered a vested member. All vested members receive all the rights and benefits of a vested member in IPERS until or unless the member files for a refund of accumulated contributions.

21.17(2) For the purposes of this rule, four quarters of coverage shall constitute a year of membership service for a member employed on a fiscal- or calendar-year basis. A member working for a school district or other institution which operates on a nine-month basis shall be granted a year of membership service for each year in which the member has three or more quarters of coverage, if the employee remains in covered employment for the next operating year. An employee who terminates covered employment and has no wages paid in the third quarter shall not receive service credit for the third quarter. Only one year of membership service credit shall be granted for any 12-month period.

21.17(3) Rescinded IAB 7/22/92, effective 7/2/92.

21.17(4) Effective July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this subrule for qualifying as a vested member on the date of termination, shall be considered vested.

21.17(5) In the case of a complete or partial termination of this fund, any affected member shall have a vested interest in the accrued benefit as of the date of such termination, to the extent such benefit is then funded.

This rule is intended to implement Iowa Code section 97B.41.

581—21.18(97B) Retirement dates.

21.18(1) Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member's last day of service or last day of leave, with or without pay, whichever is later.

21.18(2) Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination.

21.18(3) To be eligible for a monthly retirement benefit, the member must survive into the designated first month of entitlement. If the member dies prior to the first month of entitlement, the member's application for monthly benefits is canceled and the distribution of the member's account is made pursuant to Iowa Code section 97B.52. Cancellation of the application shall not invalidate a beneficiary designation. If the application is dated later in time than any other designations, IPERS will accept the designation in a canceled application as binding until a subsequent designation is filed.

21.18(4) The first month of entitlement of a member qualifying under the rule of 92 (see subrule 21.11(3)) shall be the first of the month when the member's age as of the last birthday and years of service equal 92. The fact that a member's birthday allowing a member to qualify for the rule of 92 is the same month as the first month of entitlement does not affect the retirement date.

21.18(5) Notwithstanding anything to the contrary, members shall commence receiving a distribution on or before the minimum distribution required beginning date set forth in the Internal Revenue Code. In general, members must begin distributions on or before April 1 of the calendar year after the calendar year in which they attain age of 70½, or actually terminate employment (if later).

21.18(6) For purposes of determining benefits, the life expectancy of a member, a member's spouse, or a member's beneficiary shall not be recalculated after benefits commence.

This rule is intended to implement Iowa Code sections 97B.45, 97B.47 and 97B.48(1) and (2).

581—21.19(97B) Wage-earning disqualifications for retired members.

21.19(1) Effective July 1, 1996, the monthly benefit payments for a member under age 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the amount of remuneration permitted for a calendar year for a person under age 65 before a reduction in federal Social Security retirement benefits is required. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings, and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule 21.19(5) below. For periods prior to July 1, 1996, the wage earning limitations for retired members are as follows:

For periods prior to July 1, 1996, monthly benefit payments for retired members under the age of 65 shall cease in the month the member is paid an amount in covered employment sufficient to increase the member's calendar year earnings equal to or greater than an amount determined by law. Effective January 1, 1997, this amount is \$8,640. Effective January 1, 1996, to January 1, 1997, the amount was \$8,280. Effective January 1, 1992, to January 1, 1996, the amount was \$7,440. From January 1, 1988, to January 1, 1990, the amount was \$6,120. From January 1, 1990, until January 1, 1992, the amount was \$6,840. Amounts earned outside of covered employment are disregarded for the purpose of this rule.

Effective January 1, 1991, this earnings limitation does not apply to covered employment in an elective office.

21.19(2) For periods prior to July 1, 1996, monthly benefit payments shall resume the month following the month in which a member, previously disqualified pursuant to subrule 21.19(1), terminates covered employment.

21.19(3) For periods prior to July 1, 1996, monthly benefit payments to the member shall resume in January regardless of the member's covered earnings in any previous calendar year, unless the member is disqualified pursuant to subrule 21.19(1).

21.19(4) A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

21.19(5) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 21.19(1) shall be reduced as follows:

a. A member's monthly retirement allowance in the next following calendar year shall be reduced by the excess amounts earned in the preceding year divided by the number of months remaining in the following calendar year after the excess amount has been determined. A member may elect to make repayment of the overpayments received in lieu of having the member's monthly benefit reduced. Elections to make installment payments must be accompanied by a repayment agreement signed by the member and IPERS. If the monthly amount to be deducted exceeds a member's monthly retirement allowance, the member's monthly allowance shall be withheld in its entirety until the overpayment is recovered. If a member dies and the full amount of overpayments determined under this subrule has not been repaid, the remaining amounts shall be deducted from the payments to be made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which there are no remaining amounts to be paid, or the remaining amounts are insufficient, the unrecovered amounts shall be a charge on the member's estate.

b. Employers shall be required to complete IPERS wage reporting forms for reemployed individuals which shall reflect the prior year's wage payments on a month-to-month basis. These reports shall be used by IPERS to determine the amount which must be recovered to offset overpayments in the prior calendar year due to reemployment wages.

c. A member may elect in writing to have the member's monthly retirement allowance suspended in the month in which the member's remuneration exceeds the amount of remuneration permitted under this rule in lieu of receiving a reduced retirement allowance under paragraph "a" of this subrule. If the member's retirement allowance is not suspended timely, the overpayment will be recovered pursuant to paragraph "a" of this subrule. The member's retirement allowance shall remain suspended until the earlier of January of the following calendar year or the member's termination of covered employment. The member's election shall remain binding until revoked in writing.

21.19(6) A member who is reemployed in covered employment after retirement may, after again retiring from employment, request a recomputation of benefits. The member's retirement benefit shall be increased if possible by the addition of a second annuity, which is based on years of reemployment service, reemployment covered wages and the benefit formula in place at the time of the recomputation. A maximum of 30 years of service is creditable to an individual retiree. If a member's combined years of service exceed 30, a member's initial annuity may be reduced by a fraction of the years in excess of 30 divided by 30. The second retirement benefit will be treated as a separate annuity by IPERS. Any contributions that cannot be used in the recomputation of benefits shall be refunded to the employee and the employer.

Notwithstanding the foregoing, a member who is reemployed in covered employment after retirement may, after again terminating employment, elect to receive a refund of the employee contributions made during the period of reemployment in lieu of a second annuity. If a member requests a refund in lieu of a second annuity, the related employer contributions shall be forfeited.

This rule is intended to implement Iowa Code sections 97B.41, 97B.45 and 97B.48A.

581—21.20(97B) Identification of agents.

21.20(1) Recognition of agents. When a claimant before IPERS desires to be represented by an agent in the presentation of a case, the claimant shall designate in writing the name of a representative and the nature of the business the representative is authorized to transact. Such designation on the part of the claimant shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the claimant's agent. An attorney in good standing may be so designated by the claimant.

21.20(2) Payment to incompetents. When it appears that the interest of a claimant or retiree would be served, IPERS may recognize an agent to represent the individual in the transaction of the affairs with IPERS. Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, conservatorship or Social Security representative payee documents by the individual so designated. Such persons have all the rights and obligations of the member. Notwithstanding the foregoing, none of the foregoing representatives shall have the right to name the representative as the member's beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member.

21.20(3) An individual serving in the capacity of an agent establishes an agreement with IPERS to transact all business with IPERS in such a manner that the interests of the retiree or claimant are best served. Payments made to the agent on behalf of the individual will be used for the direct benefit of the retiree or claimant. Failure to adhere to the agreement will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS or the member.

This rule is intended to implement Iowa Code sections 97B.34 and 97B.37.

581—21.21(97B) Actuarial equivalent (AE) payments.

21.21(1) If a member aged 55 or older requests an estimate of benefits which results in any one of the options having a monthly benefit amount of less than \$50, the member may elect, under Iowa Code section 97B.48(1), to receive a lump sum actuarial equivalent (AE) payment in lieu of a monthly benefit. Once the AE payment has been paid to the member, the member shall not be entitled to any further benefits based on the contributions included in the AE payment and the employment period represented thereby. Should the member later return to covered employment, any future benefits the member accrues will be based solely on the new employment period. If an estimate of benefits based on the new employment period again results in any one of the options having a monthly benefit amount of less than \$50, the member may again elect to receive an AE payment.

21.21(2) If a member, upon attaining the age of 70 or later, requests a retirement allowance without terminating employment and any one of the options results in a monthly benefit amount of less than \$50, the member may elect to receive an AE payment based on the member's employment up to, but not including, the quarter in which the application is filed. When the member subsequently terminates covered employment, any benefits due to the member will be based only on the period of employment not used in computing the AE paid when the member first applied for a retirement allowance. If an estimate of benefits based on the later period of employment again results in any of the options having a monthly benefit amount of less than \$50, the member may again elect to receive another AE payment. A member who elects to receive an AE payment without terminating employment may not elect to receive additional AE payments unless the member terminates all covered employment and completes a bona fide retirement as provided in these rules.

21.21(3) An AE payment shall be equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.48(1).

581—21.22(97B) Disability.

21.22(1) The following standards apply to the establishment of a disability under the provisions of IPERS:

a. The member must inform IPERS at retirement that the retirement is due to an illness, injury or similar condition. The member must also initiate an application for federal Social Security disability benefits or federal Railroad Retirement Act disability benefits.

b. To qualify for the IPERS disability provision, the member must be awarded federal Social Security benefits due to the disability which existed at the time of retirement.

c. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

21.22(2) If a member returns to covered employment after achieving a bona fide retirement, the benefits being provided to a member under Iowa Code section 97B.50(2)“a” or “b” shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member is aged 55 or older upon reemployment, the member shall continue to receive the monthly benefit payable to the member on the member's initial retirement date based on the member's age at the initial retirement date, years of membership service not to exceed 30, and benefit option, and subject to the applicable reductions for early retirement in place at the time of the initial retirement. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retirees.

21.22(3) Rescinded IAB 7/22/92, effective 7/2/92.

This rule is intended to implement Iowa Code section 97B.50.

581—21.23(97B) Confidentiality of records.

21.23(1) Records established and maintained by IPERS containing personal information are not public records under Iowa Code chapter 22. Records may be released to the member or the beneficiary (if the beneficiary is entitled to funds) or to a person designated by the member or beneficiary in writing. Records may also be released to an executor, administrator or attorney of record for an estate of a deceased member or beneficiary.

21.23(2) Summary information concerning the demographics of the IPERS membership and general statistical information concerning the system and its activities is made available in accordance with Iowa Code section 97B.17.

21.23(3) Notwithstanding any provisions of Iowa Code chapter 22 or 97B to the contrary, the department's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this subrule. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The department shall not be civilly or criminally liable for the release or rerelease of records in accordance with this subrule.

This rule is intended to implement Iowa Code sections 97B.15 and 97B.17.

581—21.24(97B) Service buy-in/buy-back.**21.24(1) *Prior service buy-back.***

a. Effective July 1, 1990, a member who was active, vested or retired on or after July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and took a refund of those contributions, may buy back the amount of that refund plus interest in order to establish quarters of service covered by the refund. Less than a full quarter of service will be considered equivalent to a full quarter of service. A teacher who has three quarters of service and a contract for the following year will be granted four quarters of service. IPERS may require the submission of a copy of the contract.

b. Prior to July 1, 1990, a member who was active, vested or retired as of July 1, 1978, and who made contributions to IOASI between January 1, 1946, and June 30, 1953, and who took a refund of those contributions, was able to buy back the amount of that refund and establish years of service covered by the refund.

c. A member cannot participate in the prior service buy-back if the member had taken an IPERS refund (contributions made after July 4, 1953) unless the member first participated in the IPERS buy-back in accordance with this rule.

If a member decides to buy back prior service credit, the member must repay the entire refunded amount plus the accumulated interest and interest dividends on that amount.

If a member participating in a prior service buy-back had years of public service within Iowa prior to January 1, 1946, those years of service will also be added to the member's account at no cost, subject to the member's providing verification of public service.

21.24(2) *Purchase IPERS credit for service in other public employment.*

a. Effective July 1, 1992, a vested or retired member may make application to IPERS for purchasing credit for service rendered to another public employer. In order to be eligible, a member must:

(1) Have been a public employee in a position comparable to an IPERS covered position at the time the application for buy-in is processed. Effective July 1, 1990, "public employee" includes members who had service as a public employee in another state, or for the federal government, or within other retirement systems established in the state of Iowa;

(2) Waive on a form provided by IPERS all rights to a retirement in another system for that period of employment sought to be purchased, if any; such a waiver must be accepted by the other retirement system before the member can proceed with a buy-in of that service time into IPERS; and

(3) Submit verification of service for that other public employer to IPERS.

A quarter of credit will be given for each quarter the employee was paid. If no pay dates are shown, credit will be given if the employee had service of at least 15 days in the quarter.

b. A qualifying member who decides to purchase IPERS credit must make employer and employee contributions to IPERS for each calendar quarter of service allowed in this buy-in. This contribution shall be determined using the member's covered IPERS wages for the most recent full calendar year of IPERS coverage, the applicable rates established in Iowa Code sections 97B.11 and 97B.49, and multiplied by the number of quarters being purchased from other public employment. "Applicable rates" means the rates in effect during the most recent full calendar year for the types of service being purchased. A member must have at least two quarters of reported wages in any calendar year before a buy-in cost may be calculated. If the wages reported in the last calendar year do not represent four full quarters of service (e.g., because of a leave of absence, wages reported for a partial quarter), IPERS will compute the wages for a full calendar year. A full calendar year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the full year. The value of this average quarter will be computed by selecting the highest wage year in the member's wage history and dividing the covered salary by four quarters. This value will be used in the most recent full calendar year for each quarter in which no wages were reported.

c. If a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor.

d. Members eligible to complete the buy-in may buy the entire period of service for a public employer or may buy credit in increments of one or more calendar quarters. The quarters need not be specifically identified to particular calendar quarters. A period of service is defined as follows: (1) if a member was continuously employed by an employer, the entire time is one period of employment, regardless of whether a portion or all of the service was covered by one or more retirement systems; and (2) if a member is continuously employed by multiple employers within a single retirement system, the entire service credited by the other retirement system is a period of employment. A member with service credit under another public employee retirement system who wishes to transfer only a portion of the service value of the member's public service in another public system to IPERS, must provide a waiver of that service time to IPERS together with proof that the other public system has accepted this waiver and allowed partial withdrawal of service credit. Members are allowed to purchase time credited by the other public employer as a leave of absence in the same manner as other service credit. Notwithstanding the foregoing, members wishing to receive free credit for military service performed while in the employ of a qualifying non-IPERS covered public employer must purchase the entire period of service encompassing the service time for that public employer or in the other retirement system, excluding the military time. Veterans' credit originally purchased in another retirement system may be purchased into IPERS in the same manner as other service credit.

e. Prior to July 1, 1990, in order to qualify, the IPERS member had to have been a member of another state's retirement system, and was not eligible if the member was vested under that other system. If the member did qualify, the member had to contribute the accumulated employer and employee contributions as defined in Iowa Code section 97B.41(2), for that same period of covered service under IPERS; and an amount equal to the accumulated interest on the employer and employee contributions that would have accrued if the member had been a member of the IPERS system earning the same wages as actually earned under the other system. The interest due was for the period from the date of service of the member in the other public retirement system to the date of payment of the contributions by the member equal to 2 percent plus the interest dividend rate applicable for each year. Partial buy-ins were not allowed prior to July 1, 1992, and the waiver provision in effect since July 1, 1990, did not require the acceptance of that waiver by the other public system until July 1, 1992. The requirement that the member can only buy in time "comparable to an IPERS covered position at the time" was added effective July 1, 1992.

The total amount paid will be added to the member's contribution and the years of service this amount represents will be added to the member's IPERS years of service. Effective January 1, 1993, the purchase will not affect the member's three-year average covered wage.

f. Effective July 1, 1994, a vested or retired member must have membership service and covered wages paid in the current calendar year in order to be eligible for a service purchase.

21.24(3) *IPERS buy-back.* Effective July 1, 1996, only vested or retired members may buy back previously refunded IPERS credit. The member is required to make membership contributions equal to the accumulated contributions received by the member for the period of service being purchased plus accumulated interest and interest dividends.

Effective July 1, 1996, buy-backs may be made in increments of one or more calendar quarters. Prior to July 1, 1996, the member was required to repurchase the entire period of service and repay the total amount received plus accumulated interest and interest dividends.

For periods beginning January 1, 1991, and ending June 30, 1996, an active, vested, or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, could apply in writing to IPERS to buy back the refund and the quarters of service which it represents.

Prior to January 1, 1991, in order for a member to buy back previously refunded IPERS credit, the member had to meet the following qualifications:

(1) The refund of contributions had to represent a period of service between July 1, 1953, and June 30, 1973;

(2) The member could not have been vested at the time of the refund; and

(3) The member had to have at least 15 or more years of service, a figure which could include the amount of refunded time the member wished to buy back.

21.24(4) *Prior service credit prior to January 1946.* A member who had service before January of 1946 but no service between January 1, 1946, and June 30, 1953, is eligible to receive credit for that service at no cost, subject to the member's providing verification of that service. If the member was employed after July 4, 1953, and took a refund of contributions, that member must first participate in the membership service buy-back (see subrule 21.24(3)) before receiving credit for service prior to 1946.

A member must submit proof of service in order to qualify.

21.24(5) *Veterans' credit.*

a. Effective July 1, 1992, a vested or retired member, in order to receive service credit under the IPERS system, may elect to make employer and employee contributions to IPERS for a period of active duty service in the armed forces of the United States, in increments of one or more calendar quarters, provided that the member:

(1) Produces verification of active duty service in the armed forces of the United States; and

(2) Is not receiving, or is not eligible to receive, retirement pay from the United States government for active duty service in the armed forces including full retirement disability compensation for this period of service. Disability payments received by the member as compensation for disability incurred while in service of the armed forces, which are not in lieu of military retirement compensation, will not disqualify a member from participating in this program.

A quarter of credit will be given when the date indicated on the DD214 shows service of at least 15 days in the quarter.

b. Prior to July 1, 1990, a person had to be an active member of IPERS as of July 1, 1988, and had to have covered wages during the 1987 calendar year in order to be eligible to apply. Partial buy-ins of allowable service time were not permitted until July 1, 1990.

c. The member must pay IPERS the combined employee and employer contribution amount determined using the member's covered wages for the most recent full calendar year at the applicable rates in effect for that year under Iowa Code sections 97B.11 and 97B.49 for each year of the member's active duty service. A member must have at least two quarters of reported wages in any calendar year before a buy-in cost may be calculated. If the wages reported in the last calendar year do not represent four full quarters of service (e.g., because of a leave of absence, wages reported for a partial quarter), IPERS will compute the wages for a full calendar year. A full calendar year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the full year. The value of this average quarter will be computed by selecting the highest wage year in the member's wage history and dividing the covered salary by four quarters. This value will be used in the most recent full calendar year for each quarter in which no wages were reported.

d. If a vested or retired member does not have wages in the most recent calendar year, the cost of the buy-in will be calculated using the member's last calendar year of reported wages, adjusted by an inflation factor based on the Consumer Price Index as published by the United States Department of Labor. Between July 1, 1990, and July 1, 1992, members who did not have reported wages in the most recent calendar year were not permitted to purchase their otherwise eligible service time. Effective January 1, 1993, the purchase will not affect the member's high three-year average wage.

e. Members eligible to complete the veterans' buy-in may buy the entire period of service or may buy credit in increments of one or more calendar quarters. If the entire period is not purchased, IPERS will calculate the proportionate cost of this period of service in accordance with this subrule. Fractional years of active service shall qualify a member for the equivalent quarters of credited IPERS covered service.

f. Effective July 1, 1994, a vested or retired member must have membership service and covered wages paid in the current calendar year in order to be eligible for a service purchase.

21.24(6) Legislative members.

a. *Active members.* Persons who are members of the Seventy-first General Assembly or a succeeding general assembly during any period beginning July 4, 1953, may, upon proof of such membership in the general assembly, make contributions to the system for all or a portion of the period of such service in the general assembly. The contributions made by the member shall be determined in the same manner as provided in subrule 21.24(6)"b."

b. *Vested or retired former members of the general assembly.*

(1) A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly.

(2) The contributions made by the member shall be equal to the accumulated contributions as defined in Iowa Code section 97B.41(2), which would have been made if the member of the general assembly had been a member of the system during the period of service in the general assembly being purchased.

(3) The member shall submit proof to IPERS of membership in the general assembly for the period claimed.

(4) Upon determining a member eligible and receiving the appropriate contributions from the member, IPERS shall credit the member with the period of membership service for which contributions are made.

c. *Incremental purchases.* Service purchased under this subrule must be purchased in increments of one or more calendar quarters.

21.24(7) *Vocational school (area college) employees may elect coverage under another retirement system.*

a. Effective July 1, 1990, a person newly entering employment with an area vocational school or area community college may choose to forego IPERS coverage and elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees. This option is available only to those newly hired persons who are already members of the alternative retirement system. Such an election by a newly employed person is irrevocable.

b. Effective July 1, 1994, and providing that the board of directors of the area vocational school or area community college have approved participation in an alternative retirement system pursuant to Iowa Code section 260C.23, a member employed by an area vocational school or an area community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to IPERS.

c. Rescinded IAB 7/22/92, effective 7/2/92.

d. Effective July 1, 1994, a person who is employed before that date with an area community college may file a one-time irrevocable election form with IPERS and the employer electing participation in an alternative plan. The election must be postmarked by December 31, 1995. If a person is employed July 1, 1994, or later, the person may file a one-time election with IPERS and the employer electing participation in the alternative plan. The election must be postmarked within 60 days from the date employed. The employee will be a member of IPERS unless an election is filed within the specified time frames. An employee vested with IPERS retains all of the rights of any vested member for as long as the contributions remain with the fund. Members who elect out of IPERS coverage but remain with the same employer are eligible to apply for and receive a refund of their contributions plus interest. Such members may not, however, apply for retirement benefits until attaining the age of 70, or until they terminate employment with all public employers.

21.24(8) *Refunds of service purchase amounts.* A member may request and receive a refund without interest of all or a portion of amounts paid to IPERS to buy back prior service credit or to purchase credit for other service pursuant to Iowa Code chapter 97B. Such refund requests must be made in writing within 60 days after the date of the receipt issued by IPERS to the member for such amounts. Such refunds shall be in increments representing one or more quarters. Notwithstanding the foregoing, no refund shall be made if a member has made a service purchase under this rule and one or more monthly retirement allowance payments have been made thereafter. Furthermore, this subrule shall not limit IPERS' ability to refund service purchase amounts when required in order to meet the provisions of the Internal Revenue Code that apply to IPERS. This subrule shall be effective for refund requests received by IPERS on or after May 3, 1996.

21.24(9) *IRC Section 415(n) compliance.* Effective for service purchases made on or after January 1, 1998, service purchases made under this rule and other posttax contributions shall not exceed \$30,000 per calendar year. In addition, the amounts contributed for service purchases under this rule shall not exceed the amount required to purchase the service according to the current cost schedules. In implementing these and the other requirements of IRC Section 415(n), IPERS shall use the following procedures.

a. If the member's total benefit at retirement passes the fully reduced IRC Section 415(b) dollar limit test, IPERS shall pay the total benefit.

b. If the member's total benefit at retirement fails the fully reduced IRC Section 415(b) dollar limit test, and the member made one or more service purchases, IPERS shall perform the applicable IRC Section 415 tests, with adjustments for posttax service purchases and other posttax contributions, and pay excess amounts, if any, under a qualified benefits arrangement authorized under Iowa Code section 97B.49I.

c. IPERS shall not permit the purchase of nonqualified service, as defined under IRC Section 415(n), unless such service is specifically authorized by the Iowa legislature. If so authorized, a member must have five years of existing service to make such a purchase, and the quarters of service purchased cannot exceed 20.

d. The limitations of this rule shall not apply to buybacks of prior refunds. In addition, the \$30,000 annual limit under this rule shall not apply to service purchases grandfathered under the provisions of the Iowa Code and Section 1526 of the Taxpayer Relief Act of 1997.

e. If IPERS adopts rules and procedures permitting service to be purchased on a pretax basis, the amounts contributed will not be combined with posttax service purchases and other posttax contributions in applying the foregoing procedures.

f. The provisions of this subrule shall apply to all vested members who have an account balance and retirees.

g. IPERS reserves the right to apply the limitations of IRC Section 415(n) on a case-by-case basis to ensure that such limits are not exceeded.

This rule is intended to implement Iowa Code sections 97B.42, 97B.43, 97B.72A, 97B.73 to 97B.75, and 97B.80.

581—21.25(97B) South Africa restrictions. Rescinded IAB 7/5/95, effective 8/9/95.

581—21.26(97B) Garnishments and income withholding orders. For the limited purposes of this rule, the term “member” includes IPERS members, beneficiaries, contingent annuitants and any other third-party payees to whom IPERS is paying a monthly benefit or a lump sum distribution.

A member’s right to any payment from IPERS is not transferable or assignable and is not subject to execution, levy, attachment, garnishment, or other legal process, including bankruptcy or insolvency law, except for the purpose of enforcing child, spousal, or medical support.

Only members receiving payment from IPERS, including monthly benefits and lump sum distributions, may be subject to garnishment, attachment, or execution against funds that are payable. Such garnishment, attachment, or execution is not valid and enforceable for members who have not applied for and been approved to receive funds from IPERS.

Upon receipt of an income withholding order issued by the Iowa department of human services or a court, IPERS shall send a copy of the withholding order to the member. If a garnishment has been issued by a court, the party pursuing the garnishment shall send a notice pursuant to Iowa law to the member against whom the garnishment is issued.

IPERS shall continue to withhold a portion of the member’s monthly benefit as specified in the initial withholding order until instructed by the court or the Iowa department of human services issuing the order to amend or cease payment. IPERS shall continue to withhold a portion of the member’s monthly benefit as specified in the garnishment until the garnishment expires or is released.

Funds withheld or garnished are taxable to the member. IPERS will assess a fee of \$2 per payment in accordance with Iowa Code section 252D.18(1)“b.” The fee will be deducted from the gross amount, less federal and state income tax, before a distribution is divided.

A garnishment, attachment or execution may not be levied upon funds which are already the subject of a levy, including a levy placed upon funds by the United States Internal Revenue Service, unless the requirements of 26 CFR Section 6334-1(a)(8) are met. Multiple garnishments, attachments and executions are allowed as long as the amount levied upon does not exceed the limitations prescribed in 15 U.S.C. Section 1673(b).

IPERS may release information relating to entitlement to funds to a court or to the Iowa department of human services prior to receipt of a valid garnishment, attachment, execution, or income withholding order when presented with a written request stating the information requested and reasons for the request. This request must be signed by a magistrate, judge, or child support recovery unit director or the director's designee, including an attorney representing the Iowa department of human services. In addition, IPERS may release information to the Iowa department of human services through automated matches.

This rule is intended to implement Iowa Code sections 97B.38 and 97B.39.

581—21.27(97B) Rollovers. If a member who is paid a lump sum distribution, or a beneficiary who is the member's spouse and is paid a lump sum death benefit which qualifies to be rolled over, requests that the taxable portion be rolled over to more than one IRA or other qualified plan, IPERS will assess a \$5 administrative fee for each additional rollover beyond the first one. The fee will be deducted from the gross amount of each distribution, less federal and state income tax. All amounts that would otherwise be eligible for rollover and are paid in the same taxable year shall be aggregated to determine if a distribution equals or exceeds the \$200 minimum rollover amount.

This rule is intended to implement Iowa Code sections 97B.38, 97B.48, 97B.48A, 97B.52, 97B.53, and 97B.53B.

581—21.28(97B) Offsets against amounts payable. IPERS may, with or without consent and upon reasonable proof thereof, offset amounts currently payable to a member or the member's designated beneficiaries, heirs, assigns or other successors in interest by the amount of IPERS benefits paid in error to or on behalf of such member or the member's designated beneficiaries, heirs, assigns or other successors in interest.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.25.

581—21.29(97B) Qualified domestic relations orders. This rule shall apply only to marital property orders. All support orders shall continue to be administered under rule 581—21.26(97B).

21.29(1) Definitions.

"Alternate payee" means a spouse or former spouse of a member who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member. "Alternate payee" also refers to persons who are entitled pursuant to a qualified domestic relations order to receive benefits after the death of the original alternate payee.

"Benefits" means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. "Benefits" does not include dividends payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a qualified domestic relations order.

"Domestic relations order" means any judgment, decree, or order which relates to the provision of marital property rights to a spouse or former spouse of a member and is made pursuant to the domestic relations laws of a state.

"Member" means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

"Qualified domestic relations order" means a domestic relations order which assigns to an alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

"Trigger event" means a distribution or series of distributions of benefits made with respect to a member.

21.29(2) Requirements.

a. Mandatory provisions. A domestic relations order is a qualified domestic relations order if such order:

- (1) Clearly specifies the name, Social Security number, and last-known mailing address of the member and the name, Social Security number, and last-known mailing address of the alternate payee;
- (2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method shall require IPERS to perform present value calculations of the member's accrued benefit;
- (3) Clearly specifies the period to which such order applies, including whether benefits cease upon the death or remarriage of the alternate payee;
- (4) Clearly specifies that the order applies to IPERS; and
- (5) Clearly specifies that the order is for purposes of making a property division.

b. Prohibited provisions. A domestic relations order is not a qualified domestic relations order if such order:

- (1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;
- (2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;
- (3) Requires the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined by IPERS to be a qualified domestic relations order;
- (4) Requires any action by IPERS that is contrary to its governing statutes or plan provisions;
- (5) Awards any future benefit increases that are provided by the legislature, except as provided in 21.29(2) "c"(2); or

- (6) Requires the payment of benefits to an alternate payee prior to a trigger event.

c. Permitted provisions. A qualified domestic relations order may also:

- (1) If a trigger event has not occurred as of the date the order is received by IPERS, name an alternate payee as a designated beneficiary or contingent annuitant, require the payment of benefits under a particular benefit option, or both;
- (2) Specify that the alternate payee shall be entitled to a fixed dollar amount or percentage of dividend payments, as follows:
 1. If the court order awards a fixed dollar amount of benefits to the alternate payee, the dollar amount of dividend payments to be added or method for determining said dollar amount shall be stated in the court order or an award of a share of dividend payments shall be given no effect; and
 2. If the court order awards a specified percentage of benefits to the alternate payee, IPERS shall add dividends to the alternate payee's share of the retirement allowance as necessary to keep the alternate payee's share of payments at the percentage specified in the court order;
- (3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent; and
- (4) Name a successor alternate payee to receive the amounts that would have been payable to the member's spouse or former spouse under the order, if the alternate payee dies before the member. The designation of a successor alternate payee in an order shall be void and be given no effect if the order does not provide the successor's name, Social Security number, and last-known mailing address.

21.29(3) Administrative provisions.

a. Payment to an alternate payee shall be made in a like manner and at the same time that payment is made to the member. Payment to the alternate payee shall be in a lump sum if benefits are paid in a lump sum distribution or as monthly payments if a retirement option is in effect. A member shall not be able to receive an actuarial equivalent (AE) under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits shall be based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes shall be deducted from the member's and alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis shall be allocated on a pro rata basis to the member and alternate payee.

b. If a domestic relations order does not so provide, the alternate payee shall not be entitled to any portion of the death benefit payable with respect to a member, but the failure to award an alternate payee a share of the member's death benefits in a qualified domestic relations order shall not negate a proper beneficiary designation on file with IPERS.

c. If an alternate payee has been awarded a share of the member's benefits and dies before the member, the entire account value shall be restored to the member unless otherwise specified in the order and in the manner required under this rule.

d. An alternate payee shall not receive a share of dividends or other cost-of-living increases, unless so provided in a qualified domestic relations order.

e. The chief benefits officer, or a designee thereof, shall have exclusive authority to determine whether a domestic relations order is a qualified domestic relations order. A final determination by the chief benefits officer, or a designee thereof, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

f. A person who attempts to make IPERS a party to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member shall be liable to IPERS for its costs and attorney's fees.

g. A domestic relations order shall not become effective until it is approved by IPERS. If a member is receiving a retirement allowance at the time a domestic relations order is received by the system, the order shall be effective only with respect to payments made after the order is determined to be a qualified domestic relations order. If the member is not receiving a retirement allowance at the time a domestic relations order is received by IPERS and the member applies for a refund or monthly allowance, or dies, no distributions shall be made until the respective rights of the parties under the domestic relations order are determined by IPERS.

h. IPERS and its staff shall have no liability for making or withholding payments in accordance with the provisions of this rule.

i. Alternate payees must notify IPERS of any change in mailing address. IPERS shall contact the alternate payee in writing at the last-known mailing address on file with IPERS, notifying the alternate payee that an application for a distribution has been received with respect to the member and providing the alternate payee with an application to be completed and returned by the alternate payee. The written notice shall provide that if the alternate payee does not return said application to IPERS within 60 days after such written materials are mailed by IPERS, the amounts otherwise payable to the alternate payee shall be paid to the member or the member's beneficiary(ies) until a valid application is received, and IPERS shall have no liability to the alternate payee with respect to such amounts. IPERS has no duty or responsibility to search for alternate payees. If distributions have already begun at the time that an order determined by IPERS to be a qualified domestic relations order, the qualified domestic relations order shall be deemed to be the alternate payee's application to begin receiving his or her payments under the QDRO.

j. If an alternate payee's application is received less than two weeks before the member's first or next monthly payment is to be made, payments to the alternate payee shall begin the next following month.

k. For both lump sum and monthly payments, the alternate payee's tax withholding and rollover (if eligible) elections must be received not less than two weeks in advance of the alternate payee's first payment, or IPERS will use the applicable default elections.

This rule is intended to implement Iowa Code sections 97B.4, 97B.15 and 97B.39.

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